IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 530 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

AMBALAL LAXMANBHAI PATEL DIRECTOR

Versus

STATE OF GUJARAT

Appearance:

M/S S & S ASSOCIATES for Petitioner

MR PR ABICHANDANI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 09/07/2001

ORAL JUDGEMENT

Rule. At the suggestion of the Court, Mr PR Abichandani, learned AGP appears and waives service of Rule for the respondents.

2. This petition is directed against the order dated 16.8.1999 (Annexure "D") passed by the Chief Controlling

Revenue Authority, Gujarat State in Appeal No. 40 of 1999 under Section 32B of the Bombay Stamp Act, 1958 (hereinafter referred to as "the Act") whereby the appellate authority confirmed the order dated 25.5.1993 (Annexure "B") passed by the Deputy Collector, Stamp Duty Valuation.

2. In view of the course that this Court proposes to adopt, it is not necessary to set out the facts in detail. The petitioner purchased the land in question being immovable property admeasuring 4478.50 sq.mtrs. and having non-agricultural land block No. 128-129 having an industrial shed on plot No. 12-B at village Pipodra in Mangrol Sub-Division of Surat District. The petitioner purchased the property by registered sale deed dated 12.4.1990 for the apparent consideration of Rs.44,785/- as mentioned in the sale deed and paid stamp duty of Rs.4850/- thereon. The document was presented for registration on 12.4.1990 before the Sub-Registrar, Mangrol who registered the same at item No. 1687. The Deputy Collector (Stamp Duty Valuation) initiated proceedings under Section 32B of the Act and held that the market value of the property was Rs.9,04,657/- and, therefore, stamp duty of Rs.97,707/- was required to be paid. Deducting the stamp duty already paid, the Deputy Collector called upon the petitioner to pay deficit stamp duty of Rs.92,857/- as per his impugned order dated 25.5.1993 at Annexure "B". The petitioner deposited 25% of the deficit amount while filing the appeal before the Chief Controlling Revenue Authority. After hearing the learned advocate for the petitioner, the Chief Controlling Revenue Authority passed the impugned order dated 16.8.1999 (Annexure "D") dismissing the petitioner's appeal. The petitioner has, therefore, approached this Court under Article 226 of the Constitution.

3. Mr JH Singh, learned counsel appearing for the petitioner has submitted that neither the order of the original authority nor the order of appellate authority indicate any reasons for not accepting the value of the property as stated in the sale deed nor have they indicated any reason why the market value of the property is assessed at 20 times the value stated in the sale document.

4. The learned AGP submits that since the property is situate in Surat, the market value assessed by the authorities cannot be said to be arbitrary or unreasonable.

5. In rejoinder, Mr Singh, however, submits that the property in question is situate at a distance of 50 kms. away from Surat city and, therefore, the value of the property as stated in the sale document is not incorrect. Mr Singh further states that a similarly situate property adjacent to the property in question was sold as per the document as Annexure "G" and that this document was also pointed out before the authorities. It is submitted that in that case the Deputy Collector, Stamp Duty Valuation, Valsad required the concerned party to pay only additional stamp of Rs. 750/- plus penalty of Rs.250/- whereas in the instant case, the petitioner has been called upon to pay up additional whopping amount of Rs. 93,000/-.

6. Having heard the learned counsel for the parties, it appears to the Court that since neither the order of the Deputy Collector at Annexure "B" nor the order of the Chief Controlling Revenue Authority at Annexure "D" indicate any reasons whatsoever either for not accepting the value placed by the petitioner in the sale deed nor for indicating as to why the property is valued at Rs.9 lacs i.e. 20 times the amount mentioned in the sale deed, this petition deserves to be allowed on the short ground that the orders passed by the authorities are not speaking orders. Accordingly, the order dated 16.8.1999 (Annexure "D") passed by the Chief Controlling Revenue Authority, Gujarat State in Appeal No. 40 of 1999 and the order dated 25.5.1993 (Annexure "B") passed by the Deputy Collector, Stamp Duty Valuation are required to be set aside with liberty to the respondents to give the petitioner a fresh opportunity of hearing and thereafter pass appropriate orders in accordance with law.

7. In view of the above discussion, the petition is allowed. The order dated 16.8.1999 (Annexure "D") passed by the Chief Controlling Revenue Authority, Gujarat State in Appeal No. 40 of 1999 and the order dated 25.5.1993 (Annexure "B") passed by the Deputy Collector, Stamp Duty Valuation are hereby quashed and set aside and the matter is remanded to the Deputy Collector, Stamp Duty Valuation, respondent No. 2 herein, to give the petitioner a fresh opportunity of hearing indicating as to on what basis the value of the property is sought to be assessed at Rs. 9 lacs and odd amount and thereafter respondent No. 2 shall pass appropriate orders in accordance with law.

It is clarified that the amount of stamp duty deposited by the petitioner with the Chief Controlling Revenue Authority at the time of filing the appeal shall

be treated as a deposit and shall abide by the outcome of the proceedings finally.

Rule is made absolute with no order as to costs.

(M.S. Shah, J.)

sundar/-